

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 707 of 2000

in

SPECIAL CIVIL APPLICATION No 1900 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF POLICE

Versus

HITENDRAKUMAR NARPATSINH GADHVI

Appearance:

Mr V M Pancholi, AGP for Appellants

MR RR VAKIL for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT

and

MR.JUSTICE D.P.BUCH

Date of decision: 20/11/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

Notice to the respondents. Learned Advocate Mr R R Vakil waives service of notice on behalf of respondent no.1.

In this Letters Patent Appeal under Clause 15 of the Letters Patent, the only question which requires consideration and determination is as to whether the direction, issued by the learned Single Judge in Special Civil Application no.1900 of 2000 by order dated 13.4.2000 directing the appellant-original respondent in the Special Civil Application to reconsider the case of the original petitioner-respondent, herein, in accordance with law without being technical on the point of limitation for the reasons that the original petitioner had applied even before on his attaining majority on 11.3.1997 on the death of the employee-father which had occurred on 21.11.19984, is justified or not. After having heard the learned AGP, Mr V M Pancholi for the appellants and learned Advocate Mr R R Vakil appearing for the respondent-original petitioner and considering the design and object with which the direction has been issued, we are of the opinion that it cannot be said to be in any way unjust and unreasonable, perverse requiring our interference in exercise of powers under Clause 15 of the Letters Patent. What is directed is very clear, to consider the case of the original petitioner in accordance with law without being technical on the point of limitation. It will be, therefore, open for the appellant-original respondents to consider the application on merits in accordance with law except without raising the plea of limitation in the light of the peculiar facts that the minor had applied earlier before attaining the age of majority. In the circumstance, we find that this appeal is without any substance and it deserves only and only fate of rejection and accordingly it is, hereby, rejected. Notice discharged. No order as to costs.

2. Before parting with the judgment, it is submitted that since the question pertains to the appointment upon compassionate grounds, that too, before attaining majority, after the death of his father long before, who was a Police Constable, obviously, the application which is directed to be considered, shall have to be considered within a reasonable period of time considering and bearing in mind the object and design for compassionate

appointment. In absence of any other number of such applications in process before the Government, it would be desirable to direct the appellant-original respondent, the competent authority to reconsider the application of the original petitioner, as expeditiously as possible and preferably within three months from the date of receipt of the writ of this Court.

[J N Bhatt, J]

[D P Buch, J.]

20.11.2000

msh